



General Assembly

February Session, 2010

Amendment

LCO No. 3699

HB0532603699SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

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To: Subst. House Bill No. 5326

File No. 586

Cal. No. 416

**"AN ACT CONCERNING THE APPOINTMENT OF INVESTMENT
PERSONNEL BY THE TREASURER."**

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- 1 In line 2 after the comma insert "as amended by this act,"
- 2 After the last section, add the following and renumber sections and
- 3 internal references accordingly:
- 4 "Sec. 501. (NEW) (*Effective January 1, 2011*) (a) There is created a
- 5 board of trustees of the Connecticut retirement and trust funds defined
- 6 in section 3-13c of the general statutes, which shall be composed of the
- 7 following members: one member appointed by the Governor to a term
- 8 of six years which term shall commence July 1, 2010; one member
- 9 appointed by the speaker of the House of Representatives to a term of
- 10 six years which term shall commence July 1, 2010; one by the president
- 11 pro tempore of the Senate for a term of six years which term shall
- 12 commence July 1, 2010; one by the minority leader of the House of
- 13 Representatives to a term of four years which term shall commence

14 July 1, 2010; one by the minority leader of the Senate to a term of four
15 years, which term shall commence July 1, 2010; one member appointed
16 by the leaders of the teachers' unions to a term of two years which
17 term shall commence July 1, 2010; and, one member appointed by the
18 leaders of the state employees' unions to a term of two years which
19 term shall commence July 1, 2010. Each subsequent appointment shall
20 be made for a term of six years. Each member of the board shall serve
21 until a successor is appointed and has been qualified. Each member,
22 except those members who represent the teachers' and state
23 employees' unions, shall have a minimum of fifteen years experience
24 in direct management, analysis or supervision of the investment of
25 financial assets, of which five years of such experience shall be at a
26 senior level with assets of a minimum of one billion dollars. No two
27 members of the board may be employed by the same firm or business.
28 For the purposes of this section, "teachers' union" means a
29 representative organization for certified professional employees, as
30 defined in section 10-153b of the general statutes, and "state
31 employees' union" means an organization certified to represent state
32 employees, pursuant to section 5-275 of the general statutes.

33 (b) Each member of the board shall be a fiduciary of the trust funds
34 as defined in section 3-13c of the general statutes and shall discharge
35 any duties with respect to such trust funds (1) solely in the interests of
36 the beneficiaries of the trust funds and the participants in the systems
37 whose funds comprise the trust funds, (2) for the exclusive purpose of
38 providing benefits to participants and beneficiaries and defraying
39 reasonable expenses of administering the trust funds, (3) with the care,
40 skill, prudence and diligence under the circumstances then prevailing
41 that a prudent person acting in a like capacity and familiar with such
42 matters would use in the conduct of an enterprise of like character and
43 with like purposes, and (4) by diversifying the investments of the trust
44 funds so as to minimize the risk of large losses, unless under the
45 circumstances it is clearly not prudent to do so.

46 (c) No member of the board whose actions comply with the
47 standard of care required by subsection (b) of this section shall be held

48 personally liable for losses suffered by the trust funds as a result of
49 investment decisions made pursuant to chapter 32 of the general
50 statutes. Members of the board shall be deemed to be public officials
51 for purposes of the code of ethics as contained in sections 1-79 to 1-90,
52 inclusive, of the general statutes.

53 (d) No member, any organization or business with which such
54 member is associated, or any corporate affiliate of such business or
55 organization shall directly or indirectly contract with or provide
56 services involving the investment of trust funds of the state of
57 Connecticut during such member's service on the board of trustees or
58 for two years thereafter.

59 (e) The board shall select a chairperson from among the members
60 who shall serve as chairperson at the pleasure of the majority of the
61 board. A majority of the members of the board shall constitute a
62 quorum for the transaction of business, provided that no decision may
63 be made with respect to investment of state funds with fewer than four
64 affirmative votes. Votes by members on investment decisions and
65 investment policies shall be recorded in the minutes of each meeting.
66 Members of the board shall receive an allowance of five hundred
67 dollars per board meeting attended, provided that no member shall
68 receive more than a total of five hundred dollars for meetings on any
69 one day. Members shall also receive reimbursement for all expenses
70 incurred in the performance of duties as members of the board. The
71 board shall meet at least once in each calendar quarter and at such
72 other times as the chairperson deems necessary or upon request of a
73 majority of the board members.

74 (f) The State Treasurer shall present suitable investment
75 opportunities including opportunities to contract with investment
76 managers to the board of trustees for their consideration and approval.
77 No member of the board shall present an investment proposal to the
78 board. The board may retain professional investment counsel to
79 evaluate proposals made by the Treasurer, provided that any
80 investment counsel so retained shall be deemed to be a state employee

81 for purposes of the code of ethics as contained in sections 1-79 to 1-90,
82 inclusive, of the general statutes.

83 (g) Upon approval of the board of trustees of an investment
84 opportunity or investment manager recommended by the State
85 Treasurer, the board shall direct the Treasurer or such other person as
86 the board deems appropriate to effectuate such investment of state
87 funds. Such investment shall be deemed to be in the custody of the
88 state treasurer for administrative purposes. The board shall approve all
89 such investments prior to the investment of any of the state's trust or
90 other funds, provided that board approval shall not be required for
91 investments made by an investment manager who has been approved
92 by the board.

93 Sec. 502. Section 3-13a of the 2010 supplement to the general statutes
94 is repealed and the following is substituted in lieu thereof (*Effective*
95 *January 1, 2011*):

96 (a) The Treasurer shall [, with the advice and consent of the
97 Investment Advisory Council,] appoint a chief investment officer for
98 the Connecticut retirement pension and trust funds, who shall serve at
99 the pleasure of the Treasurer and whose compensation shall be
100 determined by the Treasurer within a salary range established by the
101 Treasurer in consultation with the Investment Advisory Council. The
102 provisions of section 4-40 shall not apply to the compensation of said
103 officer. Said officer shall be sworn to the faithful discharge of duties
104 under law. Said officer shall, under the direction of the Treasurer and
105 subject to the provisions of sections 3-13 to 3-13d, inclusive, and 3-31b,
106 advise the Treasurer on [investing] investment opportunities including
107 opportunities to contract with investment managers for the [trust]
108 funds of the state and shall assist the Treasurer in presenting
109 investment opportunities to the board of trustees for approval. Said
110 officer shall also perform such other duties as the Treasurer may direct.
111 In addition to said officer, the Treasurer may [, with the advice and
112 consent of the Investment Advisory Council,] appoint a deputy chief
113 investment officer, whose compensation shall be determined by the

114 Treasurer within salary ranges established by the Treasurer in
115 consultation with the Investment Advisory Council and that shall not
116 be subject to the provisions of section 4-40, principal investment
117 officers, investment officers and other personnel to assist said chief
118 investment officer, which officers and other personnel shall serve at
119 the pleasure of the Treasurer.

120 (b) The Treasurer may retain professional investment counsel to
121 evaluate and recommend to the Treasurer changes in the portfolio of
122 the state's trust and other funds. Said counsel shall inform the
123 Treasurer of suitable investment opportunities and shall investigate
124 the investment merit of any security or group of securities.

125 (c) The cost of operating the investment department including the
126 cost of personnel and professional investment counsel retained under
127 sections 3-13 to 3-13d, inclusive, and 3-31b shall be paid by the
128 Treasurer charging the income derived from the trust funds.

129 Sec. 503. (NEW) (*Effective from passage*) (a) The Treasurer shall not
130 direct the payment of any third party fees to any person other than
131 third party fees paid in connection with state bond sales or fees
132 permitted by the Internal Revenue Code in connection with
133 guaranteed investment contracts related to debt issuance.

134 (b) Neither the Treasurer, nor any agent or employee of the
135 Treasurer, shall make personal use of any credit or thing of value given
136 by a broker or firm in connection with the investment of state funds.

137 Sec. 504. (NEW) (*Effective from passage*) (a) No person may, directly
138 or indirectly, pay a finder's fee to any person in connection with any
139 investment transaction involving the state or any political subdivision
140 of the state. No person may, directly or indirectly, receive a finder's fee
141 in connection with any investment transaction involving the state or
142 any political subdivision of the state.

143 (b) For purposes of this section:

144 (1) "Finder's fee" means compensation in the form of cash, cash
145 equivalents or other things of value paid or received in connection
146 with an investment transaction to which the state, any political
147 subdivision of the state or any quasi-public agency, as defined in
148 section 1-120 of the general statutes, is a party for any services, and
149 includes, but is not limited to, any fee paid for lobbying, as defined in
150 subsection (k) of section 1-91 of the general statutes.

151 (2) "Finder's fee" does not mean (A) compensation earned for the
152 rendering of investment services as defined in subsection (f) of section
153 9-333n of the general statutes, (B) marketing fees or due diligence fees
154 earned by the payee in connection with the offer, sale or purchase of
155 any security or investment interest, as defined in regulations which
156 shall be adopted by the Treasurer in accordance with the provisions of
157 chapter 54 of the general statutes, or (C) paid to persons who are
158 investment professionals engaged in the ongoing business of
159 representing investment managers.

160 (3) "Investment professional" means an individual or firm whose
161 primary business is bringing together institutional investors and
162 investment opportunities and who (A) is a broker-dealer or investment
163 advisor licensed or registered (i) under the Connecticut Uniform
164 Securities Act; (ii) with the Securities and Exchange Commission, in
165 accordance with the Investment Advisors' Act of 1940 or the Securities
166 Exchange Act of 1934; or (iii) with the National Association of
167 Securities Dealers in accordance with the Securities Exchange Act of
168 1934, or (B) meets criteria for individuals or firms who may
169 appropriately receive finder's fees which criteria are established by the
170 Ethics Commission, in consultation with the Treasurer, in regulations
171 adopted in accordance with the provisions of chapter 54 of the general
172 statutes.

173 Sec. 505. (NEW) (*Effective from passage*) (a) Any person who violates
174 any provision of section 504 of this act shall be assessed a civil penalty
175 not to exceed ten thousand dollars, to be fixed by the court, for each
176 violation.

177 (b) The Attorney General, upon complaint of the Treasurer, shall
178 institute a civil action in the superior court for the judicial district of
179 Hartford to recover any such penalty. In determining the amount of
180 any penalty assessed under this section, the court may consider the
181 nature, circumstances, extent and gravity of the violation, the person's
182 prior history of violations, the economic benefit resulting to the person
183 from the violation, and such other factors deemed appropriate by the
184 court.

185 Sec. 506. (NEW) (*Effective from passage*) (a) No Treasurer, during the
186 term for which such Treasurer was elected, may solicit contributions as
187 defined in section 9-333b of the general statutes for any candidate for
188 the office of Governor, Lieutenant Governor, Secretary of the State,
189 Treasurer, Attorney General, Comptroller, state senator or state
190 representative from any (1) political committee established by a firm
191 that provides investment services for brokerage, underwriting and
192 financial advisory activities which are in the statutory and
193 constitutional purview of the Treasurer and to which the Treasurer
194 pays compensation, expenses, or fees or issues a contract; (2)
195 individual who is an owner of or partner in a firm that provides
196 investment services for brokerage, underwriting and financial
197 advisory activities which are in the statutory and constitutional
198 purview of the Treasurer and to which the Treasurer pays
199 compensation, expenses or fees or issues a contract; or (3) individual
200 who is employed by any firm that provides investment services for
201 brokerage, underwriting and financial advisory activities which are in
202 the statutory and constitutional purview of the Treasurer and to which
203 the Treasurer pays compensation, expenses, or fees or issues a contract,
204 as a manager, officer, director, partner or other employee with
205 managerial or discretionary responsibilities to invest or manage funds
206 or provide investment services for brokerage, underwriting and
207 financial advisory activities.

208 (b) No candidate for the office of Governor, Lieutenant Governor,
209 Secretary of the State, Treasurer, Attorney General, Comptroller, state
210 senator or state representative may accept contributions, as defined in

211 section 9-333b of the general statutes, from any (1) political committee
212 established by a firm that provides investment services for brokerage,
213 underwriting and financial advisory activities which are in the
214 statutory and constitutional purview of the Treasurer and to which the
215 Treasurer pays compensation, expenses, or fees or issues a contract; (2)
216 individual who is an owner of or partner in a firm that provides
217 investment services for brokerage, underwriting and financial
218 advisory activities which are in the statutory and constitutional
219 purview of the Treasurer and to which the Treasurer pays
220 compensation, expenses or fees or issues a contract; or (3) individual
221 who is employed by any firm that provides investment services for
222 brokerage, underwriting and financial advisory activities which are in
223 the statutory and constitutional purview of the Treasurer and to which
224 the Treasurer pays compensation, expenses or fees or issues a contract,
225 as a manager, officer, director, partner or other employee with
226 managerial or discretionary responsibilities to invest or manage funds
227 or provide investment services for brokerage, underwriting and
228 financial advisory activities if such contribution was solicited by a
229 State Treasurer during the term for which he was elected.

230 (c) For purposes of this section "investment services" means legal
231 services, investment banking services, investment advisory services,
232 underwriting services, financial advisory services or brokerage firm
233 services.

234 Sec. 507. (NEW) (*Effective from passage*) No Treasurer or former
235 Treasurer may seek, negotiate for or accept employment with any
236 party to a contract for investment services valued at more than fifty
237 thousand dollars if the Treasurer authorized, negotiated, renegotiated
238 or awarded such contract for a period of two years from the date of the
239 authorization, negotiation, renegotiation or award of the contract, or
240 for two years from the expiration of the term for which the Treasurer
241 was elected, whichever is later."